



Appeal Decision

Site visit made on 4 January 2023

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 March 2023

Appeal Ref: APP/T3725/W/22/3305106

Land at The Paddocks, Honiley Road, Beausale CV35 7NX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Calm Paddocks Ltd against the decision of Warwick District Council.
 - The application Ref W/21/2251, dated 15 December 2021, was refused by notice dated 31 March 2022.
 - The development proposed is demolition of existing buildings, development of 5 no. dwellings, improvement of existing access, sustainable drainage, landscaping and associated infrastructure.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant submits that there is a valid fallback position due to the potential for conversion of existing agricultural buildings on site to residential use. A plan submitted by the appellant shows the potential for creation of five houses through this route (the fallback scheme). Implementation of the fallback scheme would require an application for prior approval under Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015. This includes certain conditions and limitations on the nature of conversion works that could be undertaken. Relevant considerations include whether the siting of the building would make it impractical or undesirable for it to change to residential use.
3. The fallback scheme plan shows plot 4 adjoining plots 1 and 2 on one side, but orientated at 90 degrees to those plots. It would also be very close to plot 5 on the other side. As such, plot 4 would be sandwiched between two other buildings resulting in a cramped layout that would likely result in significantly compromised living conditions for its future occupants. Therefore, the siting of the buildings would make it undesirable for a change to residential use. No robust evidence is before me to indicate otherwise. I note that the appellant acknowledges that there is an awkwardness to that layout.
4. Furthermore, the Planning Practice Guidance advises that it is not the intention of those permitted development rights to allow rebuilding work beyond what is reasonably necessary for conversion of the building. Further, that it is only where the existing building is already suitable for conversion that the building would be considered to have permitted development rights. The fallback scheme includes the conversion of existing unit 4. However that unit appears to comprise little more than a corrugated roof and supporting structures, with

very little of its own wall enclosures. Similarly, given the somewhat ramshackle appearance of the low rise element of unit 7, it appears likely that works necessary to make much of that building habitable would be tantamount to rebuilding. No substantive evidence is before me to indicate otherwise.

5. I have had regard to the Court of Appeal judgment in *Mansell v Tonbridge and Malling BC & Others* [2017] EWCA Civ 1314 and the two stage approach in *Gambone v SSCLG*. It is not the case that prior approval must be in place for an alternative development to comprise a valid fallback position. Nonetheless, in the circumstances of this case and without substantive evidence to the contrary, there are considerable uncertainties over delivery of the fallback scheme. Therefore, I consider that there is not a greater than theoretical possibility that such a scheme would take place. Consequently, the fallback scheme carries very little weight.

Main Issues

6. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (Framework) and any relevant development plan policies;
- the effect of the proposal on the openness of the Green Belt;
- the effect of the proposal on the character and appearance of the surrounding countryside;
- whether the site is a suitable location for the proposed development having regard to the development strategy for the area and accessibility to services and facilities; and
- whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether Inappropriate Development

7. Policy DS18 of the Warwick District Local Plan 2011-2019 (adopted 2017) (LP) requires application of national planning policy for proposals in the Green Belt. Paragraph 149. g) of the Framework provides an exception to inappropriate development where proposals involve the partial or complete redevelopment of previously developed land and would not have a greater impact on the openness of the Green Belt than the existing development. Annex 2 to the Framework defines previously developed land. The definition excludes land that is or was last occupied by agricultural or forestry buildings.
8. The appeal site is described as containing a mix of agricultural buildings and equestrian buildings. Existing unit 5 comprises single storey stables and would be replaced by semi-detached bungalows (proposed plots 1 and 2). Those stables would comprise previously developed land, being in equestrian use. However, a proportion of the proposed bungalows and their gardens would extend over the footprint of existing units 4 and 6. Those are shown as being in agricultural use. Therefore, the proposed bungalows would involve some

redevelopment of land that is not previously developed. As such, they would not fall wholly within the exception at paragraph 149. g).

9. Existing unit 2 comprises a barn with internal stables¹. This would be replaced by the proposed dwelling on plot 3. Existing unit 1 comprises a large hay barn with adjoining stalls to the rear. This would be replaced by proposed plots 4 and 5. On the evidence before me I am satisfied that both of those existing units are equestrian rather than agricultural buildings. Accordingly, the proposed buildings for plots 3, 4 and 5 would comprise redevelopment of previously developed land. However, the proposed garden for plot 3 would extend over the footprint of buildings described as agricultural (units 4 and 7). In addition, the parking arrangements for plots 2 to 5 would in part be on land currently occupied by an agricultural building.
10. Therefore, each proposed plot involves some use of land currently occupied by buildings said to have been in agricultural use. As such, each plot requires some development on land that is excluded from the definition of previously developed land. Consequently, I cannot conclude that the appeal scheme falls within the exception to inappropriate development under paragraph 149. g) of the Framework.

Effect on Openness of the Green Belt

11. Openness is an essential characteristic of the Green Belt that has both spatial and visual aspects. It is not a matter in dispute between the main parties that the proposal would result in an overall reduction in the footprint and volume of built development on the appeal site. I concur. The reduction in footprint would be focussed on the centre of the site through the demolition of agricultural buildings that are not proposed to be replaced through the appeal scheme. In addition, there would be a considerable reduction in the built footprint of unit 1 which would be replaced by semi-detached houses (plots 4 and 5). The footprint of the proposed buildings on units 2 and 5 would be broadly comparable to the buildings that they would replace.
12. Nevertheless, each of the proposed houses would be noticeably taller than the buildings that they would replace, as shown on Proposed Site Sections Plan (Ref 15B). Therefore buildings at the front, rear and side of the site would have greater visual prominence. Furthermore, the existing menage is generally without defining features and therefore has an open character. It is currently bound by a post and rail fence that results in a sense of openness across that land. However, the proposal would incorporate that land into the gardens for plots 4 and 5. A boundary hedge is shown around the perimeter of those gardens which would have an enclosing effect on that space. It would also be subdivided to distinguish between the gardens of those two plots. Therefore there would be a considerable spatial and visual reduction in the openness of that land.
13. Similarly, the area at the front of the site adjacent to the road currently has an informal character comprising grass and hardstanding, without internal boundary enclosures. Whereas the proposal would subdivide that space to create separate gardens for plots 1 and 3. In addition, an existing post and rail fence currently separates the site from the field adjoining existing unit 4.

¹ As shown in the appellant's Asbestos Management Survey Report (August 2020).

Whereas that boundary would be formalised to provide the garden boundary for proposed plot 3.

14. The detailed treatment of those boundaries might reasonably be addressed through a planning condition. Nevertheless, maintenance of a substantial area of land to domestic standard and the likely presence of associated residential paraphernalia, would visually diminish the sense of openness of those areas around the periphery of the site by a considerable degree. Therefore, despite a reduction in footprint and volume of built form, I find that the proposal overall would result in a modest reduction in openness of the Green Belt in spatial and visual terms. Consequently, even if I had found that the proposal amounted to redevelopment of entirely previously developed land, the proposal's impact on the openness of the Green Belt would exclude it from satisfying the Framework's exception to inappropriate development under paragraph 149. g).
15. Implementation of the fallback scheme is said to amount to development of a broadly comparable scale to the appeal scheme. However, the fallback scheme would be focused around the centre of the site, with existing units 1 and 2 shown as being demolished to create space for the access road and vehicle parking. In addition unit 5 is shown as being demolished. Whereas the footprint of the appeal scheme would be spread more around the edges of the site, with some built form on existing units 1, 2 and 5. Therefore the spatial distribution of the fallback scheme's built form would be less harmful to openness than the appeal scheme.
16. In addition, and notwithstanding the appellant's proposed layout plan for the fallback scheme, the garden sizes of the fallback scheme would be limited by restrictions under Schedule 2, Part 3, Class Q of the GDPO. Whereas the appeal scheme gardens would not. Consequently, the fallback scheme would incorporate less land into domesticated gardens than the appeal scheme. Most notably in that regard, the fallback scheme would not incorporate the existing menage into garden space.
17. Therefore, the fallback scheme would retain considerably greater spatial and visual openness than the appeal scheme on that part of the site. Such openness would be retained there even if I were to accept that the fallback scheme could be implemented without demolition of units 1 and 2. Consequently, the fallback scheme as a whole would have a less harmful effect on Green Belt openness than the appeal scheme. As such, it does not change my findings on the effect of the proposal on openness.

Character and Appearance

18. The appeal site is accessed from Honiley Road, close to the junction with Clattyland Lane and Church Road. These are narrow roads bound by hedgerows and trees to either side, with narrow grass verges. In the vicinity of the appeal site, the landscape is generally flat with modest fields bound by hedgerows, and blocks of woodland. It is not a matter in dispute between the main parties that the tree and hedgerow lined roads in the vicinity of the appeal site, with a predominance of oaks, are a key characteristic of this Ancient Arden landscape.
19. The Paddocks is a detached two storey house. It is set back from the road behind a spacious front drive and with a sizeable rear garden. Houses in the locality are similarly set within their own grounds. They are generally widely spaced and of individual design. This space between and around dwellings

contributes to the low density, rural character of the area. The appeal site appears as a collection of stables and barns. The stables close to the site entrance are within a very low level, single storey building. Larger barns are visible beyond the stables. Although the existing buildings are positioned close to one another, they have a functional agricultural and equestrian appearance that is fitting with their rural setting.

20. Whilst taller than the existing stable building, the proposed bungalows at plots 1 and 2 would be single storey. This would limit their dominance in views from the road and from within the site. In addition, they would appear subservient to the existing two storey house at The Paddocks. The building would have a simple form with a plain tiled roof which would appear in keeping with its rural setting. The proposed building for plots 4 and 5 would also have a simple form. There is also a simplicity to the sizing and placement of proposed windows, some of which would be softened by what appears to be wooden shutters.
21. Accordingly, each of the proposed buildings seen in isolation would not appear out of place. However, in combination with each other the cluster of substantial houses would appear suburban and out of place in this low density, countryside location. In addition, the proposal includes a turning head at the centre of the site, with parking spaces for thirteen vehicles around its edge. Whilst this could be softened with planting, the number of spaces proposed together with the uniformity of the layout would emphasise its suburban appearance. Together with their enclosed residential gardens and related domestic paraphernalia, the proposal would appear noticeably at odds with its rural surroundings.
22. Alterations to existing landscaping are proposed at the front of the site to achieve the necessary visibility splay. This would include setting the boundary hedge further within the site, necessitating removal of a section of the existing roadside boundary hedge. However a replacement hedge could be provided, set slightly further back from the road. Moreover, it appears reasonably likely that the hedgerow could be translocated to form part of that new boundary hedge. Also, the extent to which the boundary hedge would be realigned would be relatively limited. In any event, the appeal site is close to a road junction where a slightly greater set back from the road might be expected. Therefore I am satisfied that the proposal could retain the hedgerow lined character of this landscape.
23. However the proposal also necessitates the removal of two substantial oak trees in the existing front boundary hedge. These hedgerow oaks make an important contribution to the Ancient Arden landscape character. Replacement trees, including oaks, could form part of a landscaping scheme secured by a planning condition. However, given the size and age of the substantial oaks to be removed and their contribution to landscape character, they could not be readily replaced in the short to medium term. Therefore, although the effect would be localised, the proposal would result in unacceptable loss of features that make a positive contribution to the Ancient Arden landscape.
24. Consequently, the proposal as a whole would harm the character and appearance of the surrounding area. As such, it would be contrary to LP Policy BE1 which seeks to ensure proposals make a positive contribution to their locality through good design and layout. It would also be contrary to LP Policy NE4, which supports development that makes a positive contribution to landscape character. In addition, it would be contrary to paragraph 130 of the

Framework which, amongst other matters, requires that proposals are sympathetic to local character and history.

25. Whilst the fallback scheme would result in a change in the character of the site to residential, the effect of that change would be tempered by such uses being contained within buildings of agricultural appearance and less land being occupied by domestic gardens. As such, the fallback scheme would have a less harmful effect on the character and appearance of the area, being of a style and scale that would be more in keeping with the rural landscape.

Location of Proposed Development

26. LP Policy H1 sets out the development strategy for new housing. The supporting text to the policy confirms that open countryside is defined as being land outside built-up areas and limited infill villages. Beausale is defined as a limited infill village. The appellant's Landscape Statement (by Zebra Landscape Architects, August 2022) includes an extract of the infill development boundary for Beausale. This shows the appeal site to be outside the boundary and separated from it by intervening land. It therefore comprises open countryside.
27. The proposal is not submitted as one that would comprise rural affordable housing, rural worker accommodation, viable use of a heritage asset, re-use of disused buildings, or be of very exceptional quality. Therefore the proposal would not satisfy any of the circumstances under which housing is accepted in such a location (Policy H1, criterion e). It would therefore conflict with LP Policy H1 as a whole. The proposal is also not advanced as one that would satisfy any of the criteria relating to isolated homes under paragraph 80 of the Framework.
28. LP Policy H1 seeks to ensure a sustainable pattern of development, focusing new development on urban areas where there is greater access to local services and facilities, and consequently less reliance on travel by private car. The presence of a range of businesses in the local area could provide a source of employment for occupants of the appeal site, with some potential for those to be accessed by sustainable transport modes such as cycling. Nevertheless, the limited facilities within Beausale and surrounding areas would mean that there would be only limited opportunities for occupants of the proposed dwellings to sustain services in other nearby settlements, as envisaged in paragraph 79 of the Framework. Instead, occupants would be likely to need to travel to other larger centres to meet their day to day needs.
29. Whilst reference is made to a bus stop within Beausale, there is no footpath or street lighting along the route from the appeal site on Honiley Road. Consequently that route would be considerably less appealing in hours of darkness. Given the rural nature of the site, it appears unlikely that buses would be sufficiently frequent to provide a realistic alternative mode of transport for day to day needs. No substantive evidence indicates otherwise.
30. Given these constraints, future occupants are likely to travel by private car. Notwithstanding the potential for installation of EV charging points, and whether or not the proposal is considered to amount to isolated dwellings as defined in the Framework, the proposal would not be acceptable with regard to the development strategy for the area and accessibility to services and facilities. It would therefore fail to meet the requirements of LP Policy H1. The sustainability effects of occupancy of the fallback scheme would be broadly equivalent to that associated with occupancy of the appeal scheme.

Nevertheless, as reasoned above, the fallback scheme attracts little weight and does not alter my conclusions on this matter.

31. It may theoretically be possible for the site to revert to traffic flows associated with its previous use as an equestrian centre. Although not currently being pursued, I consider that there is a greater than theoretical possibility that such a use may come forward in the event that the appeal was unsuccessful. Nevertheless, the appellant's Transport Statement indicates that traffic generation from such an equestrian use is generally not significant, with higher traffic generation associated with riding schools and events rather than on a day to day basis. Whereas the proposed residential use would result in daily comings and goings on a relatively consistent basis.
32. Accordingly, whilst I afford considerable weight to that equestrian fallback position, its sustainability effects would likely be less than those associated with occupancy of the appeal scheme. Therefore it does not alter my conclusions on the harm arising from this main issue.

Other Considerations

33. For the reasons given above, the fallback scheme comprising the conversion of existing agricultural units, would be less harmful than the appeal scheme. Therefore it does not amount to very special circumstances sufficient to justify inappropriate development in the Green Belt. A reduced fallback scheme involving conversion of fewer agricultural units might achieve a more satisfactory layout of residential dwellings and require less substantive rebuilding work. Whilst such a scheme may therefore have a more realistic prospect of being brought forward, it would remain less harmful than the appeal scheme.

Conclusion

34. I have identified that the proposal would be inappropriate development and by definition would harm the Green Belt. It would also harm openness of the Green Belt and in accordance with paragraph 148 of the Framework I afford substantial weight to this harm. The proposal would result in harm to the character and appearance of the area, in conflict with LP Policies BE1 and NE4. It would also conflict with LP Policy H1 due to its location in the countryside and remote from sufficient day to day goods and services.
35. The proposal would provide five new homes involving some redevelopment of previously developed land. Also, there could be some biodiversity enhancements associated with the appeal scheme. Nevertheless, the harm to the Green Belt would not be clearly outweighed by the other considerations. Therefore, the very special circumstances necessary to justify inappropriate development in the Green Belt have not been demonstrated. The proposal would consequently conflict with LP Policy DS18 in respect of development in the Green Belt.
36. For the reasons given, I conclude that the appeal should be dismissed.

Rachel Hall

INSPECTOR